

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the City Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Peter McIntyre

Executive Director City Development

Reference No.: 19/00253/FUL Full Application

Proposal: **Erection of 34 no. dwellings with associated access, landscaping and sustainable drainage system.**

Location: Former Chilton Moor Cricket Club Chilton Moor Houghton-le-Spring

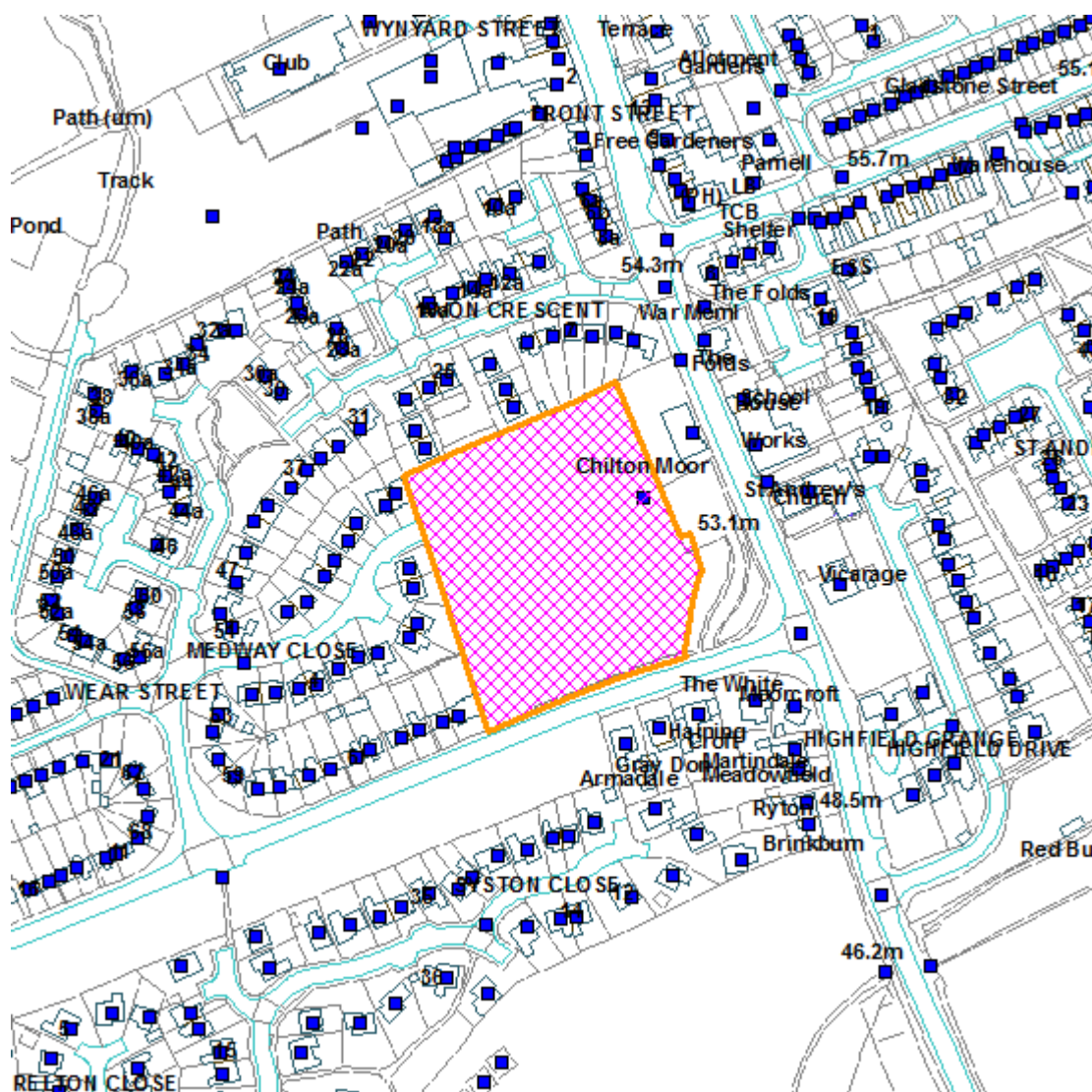
Ward: Houghton

Applicant: Homes By Esh Ltd

Date Valid: 13 February 2019

Target Date: 15 May 2019

Location Plan



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PROPOSAL:

Full planning permission is sought for the erection of 34 no. dwellings with associated access, landscaping and sustainable drainage system at the former Chilton Moor Cricket Club, Chilton Moor, Houghton-le-Spring.

The proposed development affects the site of the former Chilton Moor Cricket Club in Chilton Moor, Houghton-le-Spring. The application site is roughly rectangular in shape and covers an area of approximately 1.03 hectares. The site is fairly flat, although there is a rise of just over 3 metres across the site from west to east.

The site was last used for cricket over 15 years ago and is now in a rather rough, overgrown state and has been used informally for the grazing of horses. The former pavilion building, which stands to the north-east of the application site, is now used as a children's nursery (planning application ref. 01/00440/FUL) and is not affected by the proposed development.

The site is bordered by Black Boy Road to the south, the B1284 Chilton Moor High Street to the east and the residential dwellings of Avon Crescent and Medway Close to the north and west respectively. The area around the site is primarily residential in nature - as well as the dwellings to the north and west, there are further dwellings facing the site from the south side of Black Boy Road. To the east, however, the site is faced by St. Andrew's Church, whilst to the north-east are commercial buildings around the junction of Front Street and Dairy Lane in the centre of Chilton Moor.

The application seeks full planning permission for 34 no. two-storey dwellinghouses on the site. The application proposes a scheme of 28 no. detached dwellings, together with three pairs of semi-detached dwellings. The following schedule of housing types is proposed:

- 2 no. two-storey, two-bedroom semi-detached dwellings;
- 4 no. two-storey, three-bedroom semi-detached dwellings;
- 2 no. two-storey, three-bedroom semi-detached dwellings;
- 26 no. two-storey, four-bedroom semi-detached dwellings;

Members should note that 2 no. of the proposed dwellings are proposed to be available for affordable rent, with those to plots 10 and 11 being identified as the affordable units.

The dwellings within the proposed development are to be arranged so that a row of 8 no. properties will front the north side of Black Boy Road.

Access into the site is to be taken from Black Boy Road and the new road serving the development will run northwards before splitting into two branches, which will then terminate with lengths of private shared driveways.

The new dwellings within the development will all be afforded front and rear gardens, together with two dedicated parking spaces per dwelling, with those properties fronting Black Boy Road served by driveways accessed directly from the road. Most dwellings will also benefit from either integral or detached garages. A total of 3 no. visitor parking bays will also be provided as part of the development.

The proposals have, through the course of considering the application, been subject to minor alterations designed to address issues raised by the Council's Urban Design and Highways officers (details of which are provided later in this report). The amendments made primarily relate

to improving the range of materials used in the new dwellings, revisions to boundary treatments and minor alterations to the design and layout of new highways and in-curtilage parking areas.

Members may recall that outline planning permission was recently granted for the erection of 45 no. dwellings on the site (planning application ref. 15/00691/OUT). Members resolved to approve the application at the Development Control (Houghton, Hetton and Washington) Area Sub-Committee meeting on 6th June 2017, with the permission then issued on 13th December 2017 following the completion of an agreement under s106 of the Town and Country Planning Act 1990. This outline planning permission remains extant until 13th December 2020.

The current planning application has been submitted by Esh Homes Ltd. and has been accompanied by the following supporting information:

- Planning Statement;
- Design and Access Statement;
- Construction Management Plan;
- Flood Risk and Outline Surface Water Drainage Assessment;
- Phase I Desk Top Study Report;
- Phase II Geoenvironmental Appraisal;
- Noise Assessment;
- Transport Statement;
- Preliminary Ecological Appraisal report;
- Arboricultural Report (produced by Urban Green);
- Local Sport Needs Assessment;

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Houghton - Ward Councillor Consultation
Network Management
Environmental Health
Northumbrian Water
Northern Electric
North Gas Networks
Southern Area Command - Police
Flood And Coastal Group Engineer
NE Ambulance Service NHS Trust
Fire Prevention Officer
Nexus
Sport England
Director Of Childrens Services

Final Date for Receipt of Representations: **20.03.2019**

REPRESENTATIONS:

Public consultation - 2 no. letters of representation have been received in response to public consultation, from the occupiers of dwellings known as 'Armada' and 'Graydon', both of which front Black Boy Road opposite the application site. The following comments have been provided:

From 'Armada'

- Happy for the properties to be built as it is an improvement to the current state of the site;
- However the development will only increase the number of cars using the Black Boy Road/Chilton Moor Front Street junction and so the properties should only be built if road/traffic calming improvements be made, e.g. a speed camera on the B1284 before its junction with Black Boy Road or traffic lights at the Black Boy Road/B1284 junction;
- Consideration should also be given to traffic calming measures along Black Boy Road;
- Also concerned about the proximity of the site entrance to Armada's driveway - it could present a danger when turning in and out of the driveway;

From 'Graydon'

- Suggests road safety is an issue in the area due to speeding vehicles and that traffic lights and a pedestrian crossing should be installed at the Black Boy Road/Front Street junction;

Nexus (Tyne and Wear Passenger Transport Executive) - no objections to the application.

Northern Gas Networks - no objections to the proposals; the comments received provide advice to the developer in respect of any works required to existing gas infrastructure.

Northumbrian Water - no issues to raise with the application, provided that the application is approved and carried out within strict accordance with the submitted Engineering Layout document. It is requested that a condition be attached to any planning approval which requires compliance with the proposed engineering layout, together with arrangements for the discharge of foul and surface water and a maximum limit for the discharge rate of surface water.

Tyne and Wear Fire and Rescue Service - no objections to the proposal.

Sport England - understands that the site constitutes land previously used as a playing field; however, as the field has not been used for at least five years, consultation with Sport England is not a statutory requirement.

Notwithstanding its non-statutory capacity in this instance, Sport England has considered the proposals against the objectives of paragraph 97 of the National Planning Policy Framework and its own Playing Fields Policy and Guidance document. Sport England's position is that it will oppose the granting of planning permission which would prejudice the use of a playing field or land which was last used as a playing field, unless the development satisfies one or more of five specific exceptions. This policy approach is applied even where the use of a playing field ceased more than five years ago, providing that the site remains undeveloped and could again be used as a sports facility.

In this case, it is considered that the loss of the cricket pavilion to the nursery means that the return of the application site to cricket will not be achievable. Negotiations between Sport England and the English Cricket Board (ECB) during the consideration of the previous outline planning application for the residential development of the site (i.e. application ref. 15/00691/OUT) identified costed measures that would improve capacity at local cricket clubs to offset the loss of the application site. To this end, it is noted that the applicant has agreed to honour the financial

contribution of £42,000 previously identified for investment into local cricket to allow the development to proceed.

In light of the above, and subject to the financial contribution being secured, Sport England wishes to support the application.

Council's Highways officers - the Council's Highways officers have raised no objections to the proposed development, provided that the developer makes a financial contribution of ?5,000 towards the provision of a new pedestrian crossing facility at the junction between Black Boy Road and Chilton Moor Front Street, which would improve links to local amenities and bus services. A contribution of this amount was secured via an agreement under s106 of the Town and Country Planning Act 1990 as part of the previous outline planning approval.

Otherwise, the consultation comments received provide advice and guidance on aspects of highway design and layout, including adopted highway works, junction spacing, visibility splays, in-curtilage and visitor parking arrangements, footway crossings, turning heads, traffic calming within the development, pedestrian access arrangements, sustainable drainage of highways and the location of trees within the landscaping proposals. In terms of visitor parking, it is accepted that the proposed 3 no. spaces are appropriate given that each new dwelling will be afforded a double-width driveway.

The comments received from the Council's Highways officers have been relayed to the applicant, who has provided revisions and additional supporting information to address the issues raised. The submitted details have been considered by the Highways team and it has been confirmed that the revisions are acceptable and that no further information is required.

Council's Flood and Coastal team (in capacity as Lead Local Flood Authority) - initially advised that whilst the general approach to drainage design is appropriate, some further detail was required before an approval of the drainage strategy could be given.

Council's Urban Design officer - the comments received from the Council's Urban Design officer note that the proposals have been subject to pre-application discussions and that the layout, massing, scale and architectural detail of the development is considered to be appropriate. The orientation of dwellings and proposed detailing provides activation over all areas of the public realm and the inclusion of landscaping strips also addresses long-distance views within the site.

The Urban Design officer did, however, ask for further information in respect of boundary treatments, in particular the treatment of the acoustic fence proposed to the boundary of plots 25 and 34 and the rear/side boundaries to plots 21-23. Additionally, it was requested that consideration be given to expanding the palette of materials to be used in the exterior of the dwellings, for the two types of stone proposed to be used are similar in appearance. It was suggested that small amount of red brick be incorporated into the range of materials to be used.

Additional information has been supplied by the applicant, which provides detail of the design of the acoustic fence (to take the form of a 2-metre-high horizontal close-boarded acoustic timber fence) and clarifies that it would be impractical to introduce planting in front of the boundaries to plots 25 and 34. It has been agreed, however, to introduce a section of brick walling to the boundary opposite plots 14 and 15 to assist in breaking up the expanse of fencing. The applicant has also provided additional specification of the stone proposed to be used, which demonstrates a greater contrast between the two types of stone than had initially been apparent.

The Council's Urban Design officer has considered the additional information supplied by the applicant and has confirmed that the details are acceptable; as such, there are no objections to the scheme from a design perspective.

Council's Environmental Health team - has considered the implications of the development in respect of ground conditions/land contamination and noise.

With regard to ground conditions and land contamination, it is advised that further information be provided in respect of legacy coal mining activity, gas monitoring and concentrations of polycyclic aromatic hydrocarbons.

With regard to noise considerations, it is advised that the noise assessment submitted with the application satisfactorily considers the existing noise climate at the site and its potential to impact on future occupiers of the development and recommends appropriate noise mitigation measures to ensure suitable living conditions are achieved. Primary noise sources are identified as being from road traffic and the report recommends that the gardens to plots 25 and 34 be fitted with acoustic fencing and sound insulation measures incorporated into the design of each building envelope in order deliver acceptable external and internal noise levels. It is recommended that a condition requiring the submission of a specification for noise mitigation measures to each new dwelling be submitted for the Council's approval.

The applicant has, however, submitted additional information in respect of acoustic mitigation, confirming that the acoustic fencing will be erected alongside plots 25 and 34 and that acoustic vents will be fitted to the dwellings to plots 1-3 and 30-34. The glazing to be used in all properties will also provide the noise mitigation recommended by the applicant's report. The Council's Environmental Health team has considered the submitted information and has advised it is acceptable; as such, there is no requirement for any further information to be provided.

Council's Ecology team - notes that the field survey work undertaken in respect of the application was carried out at a sub-optimal time and the submitted evaluation lacks some detail with respect to habitat and species conservation. It nevertheless provides a satisfactory assessment of conditions prevailing on site and the recommendations at section 8 of the report ('Recommendations', providing general advice on mitigation and enhancement) should be adopted and delivered in full.

The proposed bat and bird roost and nest provision appears to be appropriate with regard to design, height and position and disturbance factors such as lighting.

It is noted that the proposals do not involve any new public greenspace, habitat creation and on-site management and as such, there is likely to be a negative impact from recreational activities on nearby sites of nature conservation importance. Consequently, it is considered necessary to request a financial contribution of £36,000 to mitigate the impacts of the development on nearby sites.

Council's Education team - considers that the scheme is likely to result in additional pressure being placed on local school places - a financial contribution of £118,043 towards supporting the provision of primary and secondary school places in the local area has therefore been requested.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

EN6 - Limit exposure of new noise/vibration sensitive developments to existing sources
EN11 - Restrictions upon new development or intensified use of land liable to flooding
EN12 - Conflicts between new development and flood risk / water resources
EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas
H1 - Provision for new housing
H4 - Density of housing development to at least reflect that of the locality
H16 - Negotiation for affordable housing in major developments
H21 - Open space requirements in new residential developments (over 40 bed spaces)
L4 - Standards for outdoor sport and recreation
L5 - Ensuring the availability of Public Parks and amenity open space
L7 - Protection of recreational and amenity land
B2 - Scale, massing layout and setting of new developments
B3 - Protection of public/ private open space (urban green space)
CN8 - Protection of higher grades of agricultural land (Grades 2 and 3A)
CN17 - Tree Preservation Orders and replacement of trees
CN22 - Developments affecting protected wildlife species and habitats
T14 - Accessibility of new developments, need to avoid congestion and safety problems arising
T22 - Parking standards in new developments
R3 - Infrastructure provision, etc. in association with developments
CN20 - Developments affecting designated/proposed SSSI's
CN21 - Developments affecting designated / proposed LNR's, SNCI's or RIGS

COMMENTS:

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

However, since the publication of the National Planning Policy Framework (NPPF), which, as paragraph 2 therein makes clear, is a material consideration for the purposes of Section 38(6) of the Act, the weight that can be given to the development plan depends upon the extent to which the relevant policies in the plan are consistent with the more up to date policies set out in the NPPF. The closer the relevant policies in the development plan to the policies in the NPPF, the greater the weight that can be given to the development plan.

The NPPF provides the Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. At paragraph 7, the NPPF sets out that the purpose of the planning system is to contribute positively to the achievement of 'sustainable development' which is defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. Meanwhile, paragraph 8 states that in order to achieve sustainable development, the planning system has three overarching objectives - an economic objective, a social objective and an environmental objective - and these are to be delivered through the preparation and implementation of plans and the applications of the policies within the NPPF.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development and states that in respect of decision-making, this means authorities should:

- c) Approve applications that accord with an up to date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Footnote 7 to paragraph 11 clarifies that in relation to applications for housing, relevant development plan policies should be considered out of date in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Members should note that of relevance at this point is the Supreme Court's verdict in respect of the recent *Suffolk Coastal District Council v Hopkins Homes Ltd. and Richborough Estates Partnership v Cheshire East Borough Council* cases (both 2017), which determined that in respect of housing supply, the term 'relevant' policies for the purposes of paragraph 11 of the NPPF should be interpreted narrowly (i.e. meaning only those policies which specifically relate to housing supply and excluding those other policies which, although potentially having an effect on the consideration of applications for housing, have a broader purpose).

Paragraph 12 of the NPPF goes on to advise that the presumption in favour of sustainable development set out by paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

In terms of the more detailed planning policies of the NPPF, of importance in considering the current application are those which seek to:

- Deliver a sufficient supply of homes (section 5);
- Build a strong, competitive economy (section 6);
- Promote healthy and safe communities (section 8);
- Promote sustainable transport (section 9);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);
- Meet the challenge of climate change, flooding and coastal change (section 14); and
- Conserve and enhance the natural environment (section 15).

These core principles of the NPPF feed into policies EN6, EN11, EN12, EN14, H1, H4, H16, H21, L4, L5, L7, B2, B3, CN8, CN17, CN20, CN21, CN22, T14, T22 and R3 of the Council's adopted Unitary Development Plan (1998), which are relevant to the consideration of this application.

The Council has also produced a new Core Strategy and Development Plan (CSDP), which sets out the Council's long-term plan for development across the City until 2033. The CSDP submission documents and supporting documents were submitted to the Secretary of State for examination on 21st December 2018 and the CSDP is currently subject to an independent examination conducted by the Planning Inspectorate, due to be completed by mid-June 2019.

Paragraph 48 of the NPPF states that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- c) The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

With regard to paragraph 48's advice, given that the CSDP has been submitted for examination, it is considered that the policies within which are not subject to unresolved objections can now be given moderate weight. Where unresolved objections to a policy remain, it is considered appropriate to lessen the weight given to the policy. The majority of the CSDP policies referenced in this report are still subject to objections and so, unless otherwise noted, it is considered appropriate to only give these policies limited weight in the determination of this application.

With reference to the above national and local planning policy background and taking into account the characteristics of the proposed development and the application site, it is considered that the main issues to examine in the determination of this application are as follows:

- 1. The Council's position in respect of housing land supply and delivery;
- 2. Land use considerations, including the principle of developing a sports pitch;
- 3. The implications of the development in respect of residential amenity;
- 4. The implications of the development in respect of design and visual amenity;
- 5. The impact of the development in respect of highway and pedestrian safety;
- 6. The impact of the development in respect of ecology and biodiversity;
- 7. The impact of the development in respect of flooding and drainage;
- 8. The impact of the development in respect of ground conditions;
- 9. The implications of the development in respect of education provision;
- 10. The implications of the development in respect of education provision;
- 11. Contributions required under Section 106 of the Town and Country Planning Act 1990 (as amended);

1. Housing land supply and delivery position

Any planning application for housing must be considered in the context of the aims of section 5 of the NPPF, which is concerned with achieving the Government's objective of significantly boosting the supply of homes in England. In order to meet this objective, paragraph 59 requires local planning authorities to identify a sufficient amount and variety of land available for housing where it is needed and, at paragraph 60, it requires local planning authorities to identify the minimum number of homes needed in its area, as informed by a local housing needs assessment conducted using the standard method provided in national planning guidance.

Paragraph 67 states that local planning authorities should have a clear understanding of the land available in their area for housing development through the preparation of a strategic housing land availability assessment and should identify specific, deliverable sites which are available for development in the upcoming 5-year period. Paragraph 73, meanwhile, sets out a requirement for local planning authorities to identify and annually update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement

set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

Also relevant are paragraphs 117 and 118 of the NPPF, which require local planning authorities to give substantial weight to the value of using suitable brownfield (i.e. previously-developed) land within settlements for homes and other identified needs.

As indicated by aforementioned paragraph 11 of the NPPF, if a local planning authority cannot demonstrate five-year supply of housing land, development plan policies which are relevant to housing should be considered out-of-date and planning permission granted for housing development unless the policies of the NPPF indicate otherwise.

In accordance with the requirements of paragraph 67 of the NPPF and in order to assess the supply of housing land available in the City, the Council produced a Strategic Housing Land Availability Assessment (SHLAA) in 2018. The SHLAA identifies sites and broad locations with potential for housing, assesses their development potential, assesses their suitability for development and the likelihood of development coming forward and provides a five-year land supply trajectory.

The 2018 SHLAA concludes that the Council can demonstrate a supply of available housing land equivalent to 5.6 years (including a 5% under-delivery buffer), which would deliver 745 no. dwellings per year over the CSDP period. The figure of 745 dwellings per annum has been identified by the Objectively Assessed Housing Need within the addendum to the Council's Strategic Housing Market Assessment (SHMA) of April 2018 and is stated as the Council's housing delivery objective for the Plan period by policy SP8 of the CSDP. Policy SP8 states that the delivery of 745 dwellings per annum will be achieved by the development of sites within the SHLAA, together with the development of sites allocated in the CSDP and forthcoming Allocations and Designations Plan (A&D Plan), the conversion and change of use of properties, the development of windfall sites and the development of small sites.

Members should also note that the housing requirement of 745 dwellings per annum set out in the Council's Publication Draft CSDP is significantly higher than the figure for the City generated by using the Government's standardised methodology for calculating housing land supply. Were the standardised methodology to be used, it would identify an annual five-year need in the City of just 570 net additional dwellings per annum. Therefore, if the standardised methodology was used as part of the five-year supply calculation, it would demonstrate that the Council is in an even stronger position in relation to the five-year supply of housing land.

It should also be noted at this point that the City has, over the period from 2015/16 - 2017/18, seen an over-delivery of housing, with a total of 2,479 homes delivered (or an average of just over 826 dwellings per year), compared to the aforementioned target of 745 dwellings per year set out in the CSDP. The Government's most recent Housing Delivery Test figures also show that the Council has delivered 186% of the number homes required over this period when using the Government's standardised methodology for calculating housing need in any given area.

The housing land supply assessed by the SHLAA includes the application site, which is considered to be capable of delivering 45 no. dwellings (the number approved in respect of the previous outline planning permission) within the next 5 years.

Given the position set out above, the Council would consider that at present, it is able to demonstrate a housing land supply of at least 5 years and so, with regard to the guidance of paragraph 11 of the NPPF, would contend that the relevant policies within its adopted UDP and the publication draft of the CSDP can be given appropriate weight (having regard to their

consistency with the NPPF and, in respect of CSDP policies, the advice of aforementioned paragraph 48 of the NPPF).

2. Land use considerations, including the principle of developing a sports pitch

As highlighted earlier in this report, the principle of allowing the site to be developed for residential purposes was previously accepted by virtue of the approval of the outline planning application for 45 no. dwellings in June 2017 (i.e. app. ref. 15/00691/FUL). Nevertheless, given that almost 2 years have passed since the determination of the previous application, it is considered necessary and appropriate to review the land use implications of the proposed development, particularly in light of recent changes to national planning policy, the emergence of the Council's Core Strategy and Development Plan and the updating of the Council's evidence base in respect of urban greenspace and playing pitch provision in the City.

To this end, the development site is identified as an area of existing open space on the proposals map of the Council's adopted UDP and as such, policies B3, L4, L5 and L7 therein are applicable.

Policy B3 seeks to protect valuable areas of public and private open space from development which would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals will be considered in the light of their contribution to urban regeneration and to the importance of such space to the established character of the area.

Policy L7, meanwhile, sets out that land allocated for open space or outdoor recreation will be retained in its existing use; permission for other uses will only be granted if:

- (i) Alternative provision, of an equivalent scale, quality and accessibility is made which assists the achievement of the standards indicated in policies L4, L5 and L6 of the UDP; or
- (ii) The development is for educational purposes; and
- (iii) There would be no significant effect on the amenity, recreational and wildlife habitat value of the site;

Access to such areas of open space will also be protected from alternative development.

Policy L4, which is referred to within the text of policy L7, sets out the Council's aspirations in respect of outdoor sport and recreation provision during the Plan period (anticipated as being until 2006), with priority given to achieving a long-term standard of 1.6-1.8ha of such space per 1000 population. Policy L5 seeks to ensure that public parks and open spaces are available and located so as to be of greatest benefit to the public and that in areas of deficiency, the Council will seek to bring vacant and derelict sites into use. Policy L6, meanwhile, sets out that the Council will seek to develop a hierarchy of playspace provision for children.

Meanwhile, policy NE4 of the Council's Publication Draft CSDP states that the Council will protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure, especially in areas of deficiency identified by the Council's Greenspace Audit and Report. To achieve this, the policy states that the Council will refuse development on greenspaces which would have an adverse effect on its amenity, recreational or nature conservation value, unless it is clear that the provision is surplus to requirements, will be adequately replaced or that a financial contribution is made to enable the Council to deliver new or improved provision elsewhere.

In terms of national planning policy, paragraph 73 of the NPPF states that local planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision and that such assessments should identify

specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Paragraph 97 continues by advising that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- o an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- o the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- o the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

It should be noted that there are some differences between the exception 'tests' set out by policy L7 of the Council's UDP and paragraph 97 of the NPPF. In particular, the NPPF policy advises that the development of open space/playing fields can be acceptable if the site is surplus to requirements. In this situation, and in line with the advice of paragraph 2 of the NPPF, the policy guidance provided by the NPPF should be given precedence.

In line with the requirements of paragraphs 96 and 97 of the NPPF, the City Council has recently undertaken a Greenspace Audit (2017/2018). Whereas in 2012, the site was identified as providing natural and semi-natural greenspace, the site is considered to no longer contribute to greenspace provision in the City, presumably given the extant planning permission for its development for residential purposes.

Also of relevance in considering the application is the Council's Playing Pitch Plan (PPP) of January 2018, which is designed to provide a clear, strategic framework for the maintenance and improvement of existing outdoor sports pitches and ancillary facilities between 2017 and 2022. The PPP provides an analysis cricket provision across Sunderland and concludes that there are issues relating to overplay across the City, although the condition and quality of overplayed pitches remains good. East Rainton Cricket Club is identified as a Club with some spare capacity, but some improvements to pitches and facilities will be required to accommodate this.

The PPP (at page 20) identifies Chilton Moor Cricket Club as a 'lapsed' site (i.e. last used more than 5 years ago) and notes the existence of the extant outline planning permission for the development of 45 no. dwellings on the site. The stance of the PPP is that all outdoor sports facilities should be protected where there is a need to do so, although it is recognised that some sites may no longer be required. To this end, at page 23, the PPP sets out a hierarchy of options in addressing disused and lapsed sites:

- 1) Explore feasibility of bringing the site back into use;
- 2) Use the site as public open space;
- 3) Redevelopment for an alternative use, but use the capital receipt to invest in existing sites in the locality.

To summarise the planning policy position, as is clear the relevant local and national policies detailed above seek to ensure that land which is used as open space or playing fields is retained in such a use, unless certain circumstances are applicable. To help inform the consideration of development proposals of this nature, the Council has produced assessments of both green space and playing pitches within the City; both assessments highlight that the site is no longer

envisaged as playing a role in the provision or supply of either greenspace or playing pitch provision in the locality or wider City in the future.

The planning application has been accompanied by a Local Sports Needs Assessment (produced by the applicant), which highlights that the site has not seen any cricket play for over 20 years. The Assessment affirms the applicant's commitment to making the same financial contribution (£42,000) as was agreed to in respect of the previous outline planning approval for the residential development of the site and it advises that discussions have been held with the Director of Cricket Development at Durham Cricket Board Ltd. in order to discuss how such a contribution could be used to support cricket provision in the area.

The Assessment discloses that Durham's Director of Cricket Development considers that the financial contribution would be best spent on improving facilities at East Rainton Cricket Club, who play on a Council-owned ground off Durham Road in East Rainton. This Club is considered to be well placed to accommodate a demand and growth in participation as its facilities are under-used in comparison to other Clubs in the Coalfields area. Moreover, there are clear opportunities for an investment and improvement in the facilities at East Rainton which would, it is considered, give rise to greater benefits in terms of increased participation than would be the case if the contribution were spent in full or in part at another Club in the area. The contribution could, therefore, act as a catalyst for significant change in the future of East Rainton Cricket Club both in terms of safeguarding its future and growing its membership, including by introducing a junior section.

In terms of specific improvements, Durham's Director of Cricket Development has highlighted that the following improvements would be most beneficial to East Rainton:

- A security fence around the ground;
- A new clubhouse/changing facility;
- A tarmac or gravel surface to the access track;
- Levelling and drainage of the outfield;
- Separate male and female toilets

As set out in the 'Representations' section of this report, Sport England has no objection to the site of Chilton Moor Cricket Club being developed for residential purposes, provided that the financial contribution of £42,000 is secured via an agreement under s106 of the Town and Country Planning Act 1990. The contribution will enable improvements to the facilities at East Rainton Cricket Club, which will in turn satisfactorily offset and mitigate the loss of Chilton Moor Cricket Club and allow East Rainton to accommodate any additional demand for cricket facilities in the area.

The approach outlined above would also align with the objectives of the Council's Playing Pitch Plan which, as noted earlier, highlights the potential for greater capacity at East Rainton and the need for the quality of the pitch and facilities at the Club to be improved. To this end, the Council's Active Sunderland Governance manager has confirmed their support for the proposed approach of using the financial contribution to improve the facilities at East Rainton.

Given the above, it is ultimately considered that the Council's most up-to-date evidence and the information supplied by the applicant together satisfactorily demonstrate that the prospect of the application site being used again for cricket is negligible and that it now has very limited value as amenity greenspace. As such, it is considered that the proposals satisfy the test at paragraph 97 of the NPPF in that the site is now surplus to requirements as a cricket pitch and as open space.

In addition, the applicant will, through the proposed financial contribution towards improving facilities at East Rainton Cricket Club, go some way to satisfying the objectives of the second test

at paragraph 97 of the NPPF and the approach of Council's Playing Pitch Plan to lapsed sites, in that the loss of the cricket pitch will be offset by improved provision at a suitable location. In considering this matter, it has been taken into account that Sport England, Durham's Director of Cricket Development and the Council's Active Sunderland Governance Manager are supportive of this approach as it will support and benefit cricket participation in the area.

Whilst there remains some conflict with the objectives of aforementioned policy L7 of the UDP, insofar as the proposed development would not deliver an alternative, equivalent provision of cricket facilities/open space, it is considered that the relevant policy guidance provided by the NPPF has been largely addressed. As the NPPF represents the most up-to-date policy guidance in relation to this matter and as at least one of the tests set by paragraph 97 of the NPPF has been satisfied, it is considered reasonable to conclude that in this particular case, it is appropriate to give consideration to an alternative development of the application site.

To this end, the applicant is proposing a residential development of the site and as noted earlier in this report, section 5 of the NPPF is concerned with significantly boosting the supply of homes in England. Additionally, policy H1 of the Council's UDP generally supports the provision of new housing in the City in order to maximise locational choice, reduce out-migration and increasing household formation, assist in regeneration objectives and, wherever possible, secure the re-use of vacant and derelict land.

The Council's Publication Draft CSDP also contains a policy (SP8) which sets out the Council's housing delivery objective for the Plan period and the site's identification in the Council's most recent SHLAA means that it is envisaged as contributing to the delivery of housing within the City over the next 5 years. Furthermore, it must also be taken into account that the site remains subject to an extant outline planning permission for 45 no. dwellings.

It is recognised that the SHLAA identifies the site as being capable of accommodating 45 no. dwellings, whereas the proposal involves 34 no. dwellings - it is nevertheless considered that this lower quantum of development, of just 11 no. fewer dwellings, would not materially undermine the Council's planned housing delivery strategy.

The implications of the proposed development in relation to land use issues have been given careful consideration in respect of the relevant national and local planning policies. In summary, and with reference to the comments provided above, it is considered that although the application site is allocated as open space/playing field, it is essentially redundant as a playing field and has very limited value as open space. The loss of the cricket pitch will also be satisfactorily mitigated by means of the financial contribution towards improving facilities at East Rainton Cricket Club, an arrangement which Durham County Cricket Club and Sport England considers to be acceptable. The proposal is therefore considered to address the relevant objectives of the NPPF and UDP in this regard. In these circumstances, it is appropriate to give consideration to alternative uses of the site and the proposed residential development is considered to be acceptable given the site's primarily residential context and its identification in the Council's SHLAA as being available to support the delivery of housing in the City over the next 5 years.

Irrespective of the above, to determine whether the proposal represents the 'sustainable development' sought by the NPPF, consideration must be given to all other relevant material planning considerations raised by the scheme, relative to the greater number of dwellings being proposed by this application. Each area for consideration is addressed in more detail below.

3. Implications of development in respect of residential amenity

Policy B2 of the UDP requires new development proposals to maintain acceptable standards of residential amenity, whilst paragraph 127 of the NPPF states that planning decisions should ensure that developments create places which, amongst other objectives, have a high standard of amenity for existing and future users.

Meanwhile, policy BH1 of the Council's Publication Draft Core Strategy and Development Plan seeks to achieve high quality design and positive improvement by, amongst other measures, ensuring development is of a scale, massing, layout, appearance and setting which respects and enhances the qualities of nearby properties and retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

In terms of the amenity afforded to prospective occupiers of the new development, it is observed that the development broadly comprises good-sized 2-, 3- and 4-bed semi-detached and detached dwellings which will generally occupy fairly spacious plots with substantial front and/or rear gardens. The spacing between the new dwellings largely accords with the recommendations set out in the Council's Residential Design Guide Supplementary Planning Document (SPD) (i.e. 21 metres between elevations containing main living room windows and 14 metres between elevations containing living rooms windows and blank elevations); there are some situations where spacing between dwellings is a little below these recommended distances, but overall it is considered that the proposed layout provides an arrangement which should ensure the dwellings are afforded acceptable levels of privacy and benefit from main living room windows with a middle- to long-distance outlook.

With regard to noise, policy EN6 of the UDP and paragraph 180 of the NPPF both require consideration to be given to the potential for noise to affect the amenity of new noise-sensitive property, such as dwellinghouses. As set out in the 'Representations' section of this report, the Council's Environmental Health team are satisfied with the methodology, conclusions and recommended mitigation measures set out in the noise assessment submitted with the application and the applicant has subsequently confirmed that appropriate noise mitigation features (i.e. acoustic fencing, acoustic vents and glazing) will be incorporated into the development. It is consequently considered that the scheme will deliver housing which affords acceptable living conditions in respect of insulation from sources of external noise.

In terms of the impact of the development on the amenity of existing nearby dwellings, it is considered that the separation distances between the new dwellings and existing properties is such that their living conditions will not be unduly harmed. The interface distances provided between the proposed dwellings and those to the west (at the end of Medway Close and fronting Black Boy Road), those to the south (on the south side of Black Boy Road) and to the north (off Avon Crescent) is considered to be satisfactory, having regard to the spacing recommendations of the SPD, and as such, it is considered that the new development will not result in any nearby dwellings experiencing any significant loss of outlook, privacy or being subjected to overshadowing/loss of light.

With regard to the above comments, it is considered that the development will not give rise to any harm to the amenity of existing dwellings in the vicinity of the application site. The development will also afford future occupiers of the dwellings with an acceptable standard of amenity, including in relation to noise. The proposals are therefore considered to satisfy the requirements of the NPPF, the Council's UDP, the Council's draft CSDP and the Council's adopted 'Residential Design Guide' SPD.

4. Implications in relation to design and character and appearance of the area

Of particular relevance in considering matters relating to design and visual amenity are sections 11 and 12 of the NPPF. Section 11 places an emphasis on making effective use of land, with paragraph 122 stating that planning decisions should support development that makes efficient use of land, taking into account matters including:

- the identified need for different types of housing and the availability of land suitable for accommodating it;
- local market conditions and viability;
- the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- the desirability of maintaining an area's prevailing character and setting, or of promoting regeneration and change;
- the importance of securing well-designed, attractive and healthy places.

Paragraph 123, meanwhile, states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Applications which do not make efficient use of land should be refused planning permission, with local planning authorities instructed to take a flexible approach to applying amenity policies where they would otherwise inhibit this objective.

Section 12 of the NPPF is concerned with achieving well-designed places, with paragraph 124 stating that the creation of well-designed places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development. Paragraph 127 goes on to advise that planning decisions should ensure that developments will, amongst other objectives:

- function well and add to the overall quality of the area, not just for the short-term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place;

Paragraph 130 then states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Meanwhile, policy B2 of the Council's UDP states that the scale, massing, layout or setting of new developments should respect and enhance the best qualities of nearby dwellings and the locality; large scale schemes creating their own individual character should relate harmoniously to adjoining areas. Policy H4 of the Council's UDP states that new housing development should be of a density which reflects the existing density found in the locality, whilst policy CN17 seeks to protect valuable trees and hedgerows.

Also relevant is UDP policy H21, which states that within new residential developments of more than 40 bed spaces, amenity open space/casual play space should be provided at a ratio of 0.4ha per 1000 bed spaces if the site is within 0.5km of a neighbourhood (or larger) open space, or 0.9ha per 1000 bed spaces if it is not.

Aforementioned policy BH1 of the Publication Draft CSDP seeks to achieve high quality design and positive improvement; to meet this objective, development should:

- create places which have a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness;
- maximise opportunities to create sustainable mixed-use developments;
- be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality;
- deliver acceptable standards of amenity;
- promote natural surveillance;
- clearly distinguish between public and private spaces;
- create visually attractive and legible environments;
- provide appropriate landscaping as an integral part of the development;
- maximise opportunities for buildings and spaces to gain benefit from sunlight and passive solar energy;
- not detract from important views of buildings, structures and landscape features;
- create safe, convenient and visually attractive areas for servicing and parking;
- maximise durability and adaptability throughout the lifetime of the development;
- meet national space standards as a minimum (for residential development);

With regard to greenspace provision, policy NE4 of the Publication Draft CSDP states that the Council will seek to enhance the quality of available greenspace by, amongst other measures, requiring all major residential development to provide a minimum of 0.9ha per 1000 bed spaces of amenity greenspace on site, unless a financial contribution for the maintenance/upgrading to neighbouring existing greenspace is considered to be more appropriate.

In terms of the visual amenity of the locality, it is considered that in its current condition, the application site does not make a particularly positive contribution to the visual amenity of the area. Furthermore, the site is located in an established built-up area primarily characterised by residential development. Given this context, it is considered that a residential development of the site can relate satisfactorily to its surroundings.

On a more detailed level, as set out in the 'Representations' section of this report, the Council's Urban Design team has advised that the proposals are acceptable in terms of the scale, massing, layout and architectural detailing of the scheme. Some minor issues were raised in respect of boundary treatments within the site, but these have been satisfactorily addressed by the applicant through the provision of additional supporting detail and the introduction of a brick wall instead of a timber fence to the boundary located opposite plots 14 and 15, which helps to break up an otherwise extensive section of unbroken fencing. It is also considered that the materials to be used in the development are acceptable.

In terms of the density of the proposed development, it is acknowledged that the current scheme proposes a lower number of dwellings than approved in respect of the extant outline planning permission for the site (i.e. 34 dwellings as opposed to 45 dwellings). It is considered, however, that the amount of development proposed still makes effective use of the site and that it will correspond well to the density of housing development found in the locality. Indeed, it is considered that the lower density of development proposed by the current application will deliver a scheme which has a more spacious layout and character and, overall, will deliver a more attractive development.

In terms of greenspace, it is evident that whilst the use of open plan front and side garden areas will give the development a fairly 'green' character and appearance, there is no meaningful public

greenspace provision within the development. Using the calculation set out by policy H21 of the UDP (which, at present, remains the Council's adopted greenspace policy), on the basis that there are no 'neighbourhood' level areas of open space within 0.5km of the site (as listed in Annexe A of the UDP), the development should incorporate approximately 504 sq. metres of greenspace.

Consideration must be given, however, as to whether an area of greenspace of such a small size would provide any meaningful benefits to residents of the proposed development or residents in the wider locality. In addition, it is observed, that the site is within 500 metres of the Rainton Meadows Nature Reserve and visitor centre, which is identified by the Council's most recent Greenspace Audit and Report (December 2018) as an area of 'high quality natural and semi-natural greenspace' covering over 2ha. It is also possible to reach areas of open countryside to the south and west of the application site via the network of public rights of way in the locality, whilst Keir Hardie Recreation Ground and Play Area is located approximately 250 metres to the north of the site.

Given the above, it is considered that the absence of any formal greenspace within the development will not undermine the overall level of amenity afforded by the scheme, particularly given the proximity of the site to high-quality areas of formal open space.

With the NPPF's objectives regarding design quality in mind, it is concluded that the proposed development will deliver a scheme which affords a good standard of design and that it will relate well to its context and surroundings. The proposed development therefore satisfies the requirements of paragraphs 122, 124 and 127 of the NPPF, policies B2 and H4 of the Council's UDP, policy BH1 of the Council's Publication Draft CSDP and the Council's 'Residential Design Guide' SPD.

5. Impact of the development on highway and pedestrian safety

Policy T14 of the Council's UDP states that new development proposals must not lead to conditions which are prejudicial to highway and pedestrian safety, whilst policy T22 seeks to ensure development is provided an appropriate level of off-street parking.

Meanwhile, policy ST2 of the Council's Publication Draft CSDP states that to ensure development has no unacceptable adverse impact on the Local Road Network, proposals must ensure that:

- new vehicular access points are kept to a minimum and designed in accordance with adopted standards;
- they deliver safe and adequate means of access, egress and internal circulation;
- where an existing access is to be used, it is improved as necessary;
- they are assessed and determined against current standards for the category of road;
- they have safe and convenient access for sustainable transport modes;
- they will not create a severe impact on the safe operation of the highway network.

Paragraph 108 of the NPPF states that in considering applications, local planning authorities should ensure that:

- appropriate opportunities to promote sustainable transport modes can be taken up;
- that safe and suitable access to the site can be achieved for all users; and
- that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree;

Also relevant is paragraph 109, which states that development should only be refused on highways grounds if it would have an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe.

Paragraph 110 goes on to advise that within the context of paragraph 109, applications for development should:

- give priority first to pedestrian and cycle movements and second to access to high quality public transport;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians cyclists and vehicles;
- allow for the efficient delivery of goods and access by service and emergency vehicles;
- be designed to enable charging of plug-in and other ultra-low emissions vehicles.

Paragraph 106 recommends that Local Planning Authorities guard against the adoption of overly-stringent maximum parking standards.

As set out in the 'Representations' section of this report, the Council's Highways team have raised no objections to the proposed development given its sustainable location and relationship with the existing highway network. The minor technical issues raised within the Highways consultation response have been satisfactorily addressed by the applicant and the scheme is now considered to be acceptable in respect of its impact on highway and pedestrian safety.

This view is, however, subject to the applicant making a financial contribution of £5,000 towards a new pedestrian crossing over Chilton Moor Front Street, designed to provide better links between the application site and the shops and services within Chilton Moor. The applicant has agreed to the payment of this contribution and it will be secured via an agreement under s106 of the Town and Country Planning Act 1990.

Members should note that the pedestrian crossing would be delivered as part of a wider scheme of improvements to the Front Street/Black Boy Road junction, which will in turn be funded by a financial contribution secured via the approval of the development of up to 141 no. dwellings on land at Black Boy Road, to the west of the application site (application ref. 16/02123/OU4).

For the reasons set out above, it is considered that subject to the securement of the s106 contribution, the proposed development is sustainable in terms of transport considerations and that it will not have an unacceptable impact on highway safety. As such, the proposals are considered to satisfy the objectives of paragraphs 108, 109 and 110 of the NPPF, whilst the proposals also comply with the aims and objectives of policies T14 and T22 of the UDP and policy ST2 of the Publication Draft CSDP.

6. Implications of development in respect of ecology and biodiversity

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment. At paragraph 170, it advises that planning decisions should contribute to and enhance the natural and local environment by, amongst other measures, protecting sites of biodiversity value (in a matter commensurate with their statutory status or identified quality in a development plan), by recognising the benefits from natural capital and ecosystem services and by minimising impacts on and providing net gains for biodiversity.

At paragraph 175, the NPPF advises that planning permission should be refused for development if any significant harm it causes to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for. Planning permission should also be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodlands and ancient or veteran trees, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

On a local level, policy CN20 of the UDP states that development which will adversely affect a designated or proposed Site of Special Scientific Interest (SSSI) either directly or indirectly will not be permitted unless no alternative site is reasonably available, the benefits of the development would clearly outweigh the site's value and appropriate mitigation can be secured through the use of planning conditions or planning obligations. Policy CN21 applies the same principles to development affecting designated or proposed Local Nature Reserves and Sites of Nature Conservation Importance (now Local Wildlife Sites).

Policy CN22, meanwhile, states that development which would adversely affect any animal or plant species afforded special protection by law, or its habitat, either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, where appropriate, planning obligations, and the overall effect will not be detrimental to the species and the overall biodiversity of the city.

Also relevant is policy CN17 of the UDP, which seeks to protect valuable trees and hedgerows.

Policy NE2 of the Publication Draft CSDP sets out measures for the protection, creation, enhancement and management of biodiversity and geodiversity, whilst proposals which would adversely affect designated sites will have to demonstrate that there are no reasonable alternatives and that the case for the development clearly outweighs the nature conservation value or intrinsic value of the site. Policy NE3, meanwhile, seeks to conserve significant trees, woodlands and hedgerows wherever possible.

As set out in the 'Representations' section of this report, the Council's Ecologist has raised no objections to the proposed development in terms of the site itself, which is of limited ecological value. Appropriate on-site mitigation and enhancement measures can be achieved via the delivery of bat and bird roosting opportunities within the development.

Of greater concern is the potential for residents of the new development to place additional recreational pressure on ecologically sensitive sites in the area, including the nearby Rainton Meadows Nature Reserve. It is considered, however, that these additional pressures can be satisfactorily mitigated and managed by the developer making a financial contribution of £36,000, which would be focused on site wardening, access and habitat management and species protection.

The applicant has agreed to make this financial contribution and it will be secured by an agreement under s106 of the Town and Country Planning Act 1990.

For the reasons set out above and subject to the securing of the s106 contribution, it is considered that the proposals are acceptable with regard to their on-site and off-site ecological impacts. The proposals are therefore considered to comply with the requirements of paragraphs 170 and 175 of the NPPF, policies CN21 and CN22 of the Council's UDP and policy NE2 of the Council's Publication Draft CSDP.

7. Implications of development in respect of flooding/drainage

In relation to flooding, paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Paragraph 165, meanwhile, states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- take account of advice from the Lead Local Flood Authority (LLFA);
- have appropriate proposed minimum operational standards;
- have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- where possible, provide multifunctional benefits.
-

Policy EN12 of the UDP seeks to ensure that proposals would not be likely to impede materially the flow of flood water, or increase the risk of flooding elsewhere, or increase the number of people or properties at risk from flooding (including coastal flooding). Policy WWE2 of the Publication Draft CSDP sets out measures to reduce flood risk and ensure appropriate coastal management, whilst policy WWE3 states that development must consider the effect on flood risk, on-site and off-site, commensurate with its scale and impact.

As set out in the 'Representations' section of this report, Northumbrian Water have raised no objections to the development, although it is requested that conditions be imposed requiring compliance with the proposed engineering layout, together with arrangements for the discharge of foul and surface water and a maximum limit for the discharge rate of surface water.

However, the Council's Flood and Coastal team, in their capacity as Lead Local Flood Authority, have advised that whilst the general approach to drainage design is appropriate, some further detail is required before an approval of the drainage strategy could be given.

The applicant has consequently been asked to provide additional information in support of the proposed approach to the sustainable drainage of the site. Further details have now been submitted by the applicant's consultant, which provides additional clarity on anticipated flood flow volume calculations, the treatment of driveway surfaces (to be porous) and flood flow analysis.

The submitted information is currently being considered by the Council's Flood and Coastal team. It is anticipated that the Flood and Coastal team's assessment of the additional details will be completed ahead of the Committee meeting. An update on the position relative to flood risk and sustainable drainage will be provided to Members in a supplementary report.

8. Implications of development in respect of land contamination/coal mining legacies

Paragraph 178 of the NPPF states that planning decisions must ensure that development sites are suitable for the new use, taking account of ground conditions and land instability, including from former activities such as mining and pollution. Meanwhile, policy EN14 of the UDP states that where development is proposed on land where there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out. Policy HS3 of the Publication Draft CSDP sets out a similar approach to dealing with contaminated land to UDP policy EN14.

As noted in the 'Representations' section of this report, having reviewed the relevant reports and assessments submitted by the applicant, the Council's Environmental Health team have not objected to the development of the site and have do not consider that ground conditions or land contamination will represent a constraint to its residential use. The consultation comments received do, however, ask that further technical information be submitted in order to demonstrate that all possible sources of contamination or instability have been properly considered - whilst appropriately-worded conditions could be used to require the submission and approval of this additional detail, the applicant has advised that they intend to submit the necessary information prior to the determination of the application.

To this end, additional information from the applicant relating to ground conditions/land contamination is awaited. It is anticipated that this will have been submitted and assessed by the Council's Environmental Health team prior to the Committee meeting. An update on the position relative to ground conditions and land contamination will be provided to Members in a supplementary report.

9. Implications of development in relation to education provision

With regard to education provision, paragraph 94 of the NPPF states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities - Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. Paragraph 008:, reference ID: 23b-008-20190315 of the Government's Planning Practice Guidance website states that when considering contributions required towards education, decision-makers should consider existing or planned/committed school capacity and whether its sufficient accommodate proposed development within the relevant school place planning areas.

On a local level, policy R3 of the Council's UDP states that where the effects of a development would require additional off-site infrastructure or community facilities (including schools), the developer will normally be expected to enter into a planning obligation with the City Council to enable suitable provision, protection or investigation to be made.

As set out earlier in this report, the Council's Education officer is of the view that the development should contribute a total of £118,043 towards primary and secondary school provision in the area, with this figure calculated with regard to the number of school-aged children likely to reside at the development and the cost of school places based on Department for Education data. The focus of any contributions would be Dubmire, Burnside and Newbottle Primary Schools and Kerpier Secondary School.

The applicant has agreed to make the requested contribution in full and the payment will be secured via an agreement under s106 of the Town and Country Planning Act 1990. Subject to the completion of the agreement, it is considered that the impact of the development on education provision in the area can be appropriately managed, in accordance with the objectives of paragraph 94 of the NPPF and policy R3 of the Council's UDP.

10. Affordable housing

Paragraph 62 of the NPPF states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site. Paragraph 64 goes on to state that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution

from the site), unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified housing needs of specific groups. Some exemptions to this requirement do apply (e.g. where the development is for Build to Rent homes or provides specialist accommodation), although none of the listed exemptions are considered to apply to the application proposal.

Annex 2 (Glossary) of the NPPF then provides a detailed definition of affordable housing, with four distinct types being identified:

- a) Affordable housing for rent;
- b) Starter homes;
- c) Discounted market sales housing
- d) Other affordable routes to home ownership

On a local level, policy H16 of the UDP states that the Council will negotiate with developers, on the basis of an assessment of local needs and site suitability, for elements of affordable housing. The Council's current approach, as informed by its most recent Strategic Housing Market Assessment (SHMA update of 2017), is that 10% of dwellings within new housing developments of 15 or more units should be affordable. The affordable provision should then be split at a ratio of 80% affordable rent housing to 20% intermediate housing, on the basis that there is an unmet need for affordable rent housing in the City.

Policy H2 of the Council's Publication Draft CSDP sets the trigger for an affordable housing contribution at developments of 10 or more units and requires 15% of dwellings to be affordable. The supporting text to the policy reiterates the recommendation of the 2017 SHMA in terms of the 80:20 split between different tenure types. Policy H2 also states that any affordable units being provided within a development should be retained in an affordable use in perpetuity.

Members should note at this stage that as the CSDP is not yet adopted, it is not considered appropriate to request the 15% affordable housing contribution set out by policy H2 therein and the applicant was consequently requested to provide the 10% contribution (i.e. 5 affordable units) with an 80% affordable rent/20% intermediate tenure split as recommended by the SHMA.

As noted earlier in this report, the application proposes that the dwellings to plots 10 and 11 of the submitted layout be made available for affordable rented accommodation (i.e. rent at no more than 80% of the level of local market rent). Whilst a development of 34 no. dwellings would normally attract a requirement for 3 no. affordable homes, having discussed the matter with officers from the Council's Planning Policy and Housing teams, it is considered that the shortfall of 1 no. affordable unit is acceptable in this instance.

In reaching this conclusion, it has been taken into account that the amount of affordable housing to be delivered at the site is, overall, limited and that the shortfall of one affordable unit is not significant. It is also noted that the affordable units will be available for rent, the need for which is considered to be greater than for other forms of affordable accommodation. Moreover, it must be recognised that the applicant has committed to meeting all other financial contributions being sought by the Council (i.e. towards highways, ecology, education and cricket facilities) and in light of this, it is considered that allowing a degree of flexibility in respect of the affordable housing at the site is appropriate.

It is therefore considered that on balance, the proposed affordable housing provision for the site is acceptable and will satisfy the objectives of paragraph 64 of the NPPF and policy H16 of the Council's UDP in that it will make an appropriate contribution to meeting the affordable housing needs of the City.

11. Summary of position in respect of s106 Contributions

Paragraph 54 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations - such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and should only be used where it is not possible to use planning conditions. Paragraph 56 goes on to advise that planning obligations should only be sought where the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development;

On a local level, policy R3 of the Council's UDP states that where the effects of a development would require additional off-site infrastructure or community facilities (including schools), the developer will normally be expected to enter into a planning obligation with the City Council to enable suitable provision, protection or investigation to be made.

Policy ID2 of the Publication Draft CSDP, meanwhile, states that s106 planning obligations will be sought to facilitate delivery of:

- i) Affordable housing; and
- ii) Local improvements to mitigate the direct or cumulative impact of development and/or additional facilities and requirements made necessary by the development (in accordance with a forthcoming Planning Obligations Supplementary Planning Document).

To facilitate the delivery of the mitigation measures, the Council will seek maintenance, management, monitoring and such related fees.

Paragraph: 018, reference ID: 23b-018-20190315 of the Government's Planning Practice Guidance website makes it clear that applicants do not have to agree to a proposed planning obligation, but failure to do so may lead to a refusal of planning permission or non-determination of the application.

As set out in the 'Representations' section of this report, the following financial contributions have been requested from the respective consultees and would be secured via a s106 agreement:

- o £118,043 towards primary and secondary education provision;
- o £42,000 towards improving facilities at East Rainton Cricket Club;
- o £36,000 towards an off-site ecological mitigation and protection programme;
- o £5,000 towards highways improvements;

The s106 agreement would also seek to secure the provision of affordable housing which, as discussed above, would entail 2 no. affordable rented units.

The requested financial contributions towards education provision, ecology, cricket improvements and the contribution towards affordable housing are considered to be necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. As such, it is considered that these contributions satisfy the tests set out at paragraph 56 of the NPPF and Regulation 122(2) of the CIL Regulations.

As noted earlier, the applicant has agreed to the financial and affordable housing contributions detailed above and these will be secured via an agreement under s106 of the Town and Country Planning Act 1990. An agreement to this effect has been drafted by the Council's Legal team and, following discussions and negotiations with the applicant and their legal representatives, the agreement is now in a position where it can be completed and sealed following the Committee meeting should Members be minded to approve the application.

CONCLUSION

In summary, having taken account of the status of the site as a former cricket pitch, the principle of the proposed housing development is considered to be acceptable, subject to the developer making a financial contribution towards improving facilities at East Rainton Cricket Club, in order to off-set the loss of the pitch.

Additionally, and for the reasons set out above, the proposed development is considered to be acceptable in terms of urban design and visual and residential amenity and, subject to the receipt of financial contributions, the development is also considered to be acceptable in relation to highway access and car parking and ecology/biodiversity impacts. The proposed affordable housing provision is also considered to be acceptable.

In respect of these matters, the proposals are considered to be compliant with the aims, objectives and detailed policies of the NPPF, the up-to-date policies of the Council's UDP, the policies of the Council's Publication Draft Core Strategy and Development Plan and the Council's adopted 'Residential Design Guide' SPD, as referenced throughout this report.

However, as noted previously, matters relating to sustainable drainage and ground conditions/land contamination are still being given consideration and additional information and consultee responses are awaited in this regard. It is anticipated that the requested information will have been submitted to the Council and reviewed by the relevant Council officers ahead of the Committee meeting. An update of the situation in respect of these matters will be provided to Members on a supplementary report.

The supplementary report will also provide details of a recommendation decision and a final list of recommended conditions.

EQUALITY ACT 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

RECOMMENDATION: MINDED TO APPROVE, subject to the submission of satisfactory additional information relating to sustainable drainage, ground conditions and land contamination and completion of s106 agreement, and subject to the following draft conditions:

Conditions:

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:

Site location plan (drawing no. BB-LO-001);
Revised proposed site layout plan (drawing no. BB-SL-001, revision U);
Revised proposed landscape proposals plan (drawing no. D209.L.001, revision C);
Proposed Material Finishes Layout plan (drawing no. BB-MF-001);
Proposed Enclosures layout plan (drawing no. BB-EN-001, revision E);
Proposed bat and bird box location plan (drawing no. BBR-BBL-001);

Proposed bat and bird box specifications (by Marshalls);
Proposed Construction Management Plan (drawing no. BB-CMP-001, revision F);
Proposed 'Black Boy Road, Chilton Moor, Construction Scheme of Working' document (by Homes by Esh);
Proposed Streetscene plan (drawing no. BB-SS-001)
Proposed tree retention and removal plan (drawing no. D209.L.003 EXT);
Proposed 'Arundel' house type plans
Proposed 'Cypress' house type plans
Proposed 'Epsom' house type plans
Proposed 'Lancaster' house type plans
Proposed 'Leicester' house type plans
Proposed 'Lichfield' house type plans
Proposed 'Rochester' house type plans
Proposed 'Shrewsbury' house type plans
Proposed 'Southwark' house type plans
Proposed 'Winchester' house type plans
Proposed 'York' house type plans
Proposed garage plans
Proposed acoustic fencing specification (drawing no. J7/01166)

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

3 The external materials to be used in the construction of the dwellings hereby approved shall be those listed at Question 9 of the submitted planning application form, namely:

Masonry - Marshalls 'Cromwell' pitched Yorkstone and Marshalls 'Cromwell' pitched weathered stone;
Roof - Sandtoft grey concrete roof tile and black uPVC fascias and soffits;
Windows - uPVC windows, French windows and bi-fold doors in white;
Doors - black painted front and rear doors, black roller shutter doors to garages;

unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Council's Unitary Development Plan.

4 The development hereby approved shall be undertaken in accordance with the Construction Management Plan (drawing no. BB-CMP-001, rev. F) and 'Black Boy Road, Chilton Moor, Construction Scheme of Working' document (by Homes By Esh) submitted with the planning application, in order to ensure the development is carried out in a manner which respects the amenity of the area and to comply with the objectives of the NPPF and policy B2 of the Council's UDP.

5 The hard and soft landscaping and planting scheme hereby approved (drawing no. D209.L.001, revision C) shall be implemented in full in accordance with the submitted plans. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting season following the occupation of the new dwellings or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the

Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the UDP.

6 Notwithstanding the submitted 'Enclosures Layout' plan, the section of boundary opposite plots 14 and 15 of the approved site layout shall take the form of a 1.8 metre high brick wall, in the interests of visual amenity and to comply with the objectives of the NPPF and policy B2 of the Council's UDP.

7 The acoustic fencing to the side boundary of plots 25 and 34 shall be constructed and erected in accordance with the submitted specification (drawing no. J7/01166 by Jacksons Fine Fencing) prior to the occupation of the dwellings to plots 25 and 34 and shall be maintained as such thereafter for the lifetime of the development, in order to ensure the dwellings afford residents an acceptable level of amenity and to comply with the objectives of the NPPF and policy EN6 of the Council's UDP.

8 The proposed noise mitigation measures (i.e. as per the 'Acoustic Mitigation Plan', drawing no. BB-AMP-001) shall be installed prior to the occupation of the dwellings hereby approved. In the interests of clarity, the acoustic vents to be fitted shall be Titon SF Xtra Sound Attenuators (or vents with an equivalent or better sound reduction specification). The measures are required in order to ensure future residents of the development are afforded acceptable levels of amenity and to comply with the objectives of the NPPF and policy EN6 of the Council's UDP.

9 The development hereby approved shall be undertaken in accordance with the recommendations set out at section 8 ('Recommendations') of the 'Preliminary Ecological Appraisal Report' by Ecosurv, January 2019, submitted with the application, in order to ensure the implications of the development in relation to ecology and biodiversity are acceptable and to comply with the objectives of the NPPF and policy CN22 of the Council's UDP.

10 The proposed bat and bird roost boxes shall be fitted in accordance with the submitted details (location plan drawing no. BBR-BBL-001 and specification by Marshalls) and shall be maintained for the lifetime of the development hereby approved, in the interests of ensuring the development does not have a negative impact on species protected by law and to comply with the objectives of the NPPF and policy CN22 of the Council's UDP.

11 The areas indicated on the submitted plans for the in-curtilage parking of vehicles shall be laid out in accordance with the approved plans before each respective approved dwelling is occupied and the visitor parking bays laid out in accordance with the approved plans prior to the occupation of the final dwelling. The parking areas shall then be made available for such use at all times thereafter, in the interests of highway safety and to comply with policy T22 of the UDP.